

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT FRANK FIALHO,

Plaintiff,

v.

AULD, et al.,

Defendants.

No. 2:21-cv-1698 KJM DB P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 27, 2021 and May 20, 2022, the magistrate judge filed findings and recommendations. Each set of findings and recommendations was served on plaintiff and contained notice to plaintiff that any objections to the findings and recommendations were to be filed within thirty days. Plaintiff has not filed objections to either set of findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law

1 by the magistrate judge are reviewed de novo by both the district court and [the appellate] court
2"). Having reviewed the file, the court finds the findings and recommendations to be
3 supported by the record and by the proper analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The findings and recommendations filed October 27, 2021 are adopted in full;
- 6 2. Plaintiff's claims based on the Health Care Portability and Accountability Act and on
7 California regulations are dismissed with prejudice;
- 8 3. The findings and recommendations filed May 20, 2022 are adopted in full; and
- 9 4. The remainder of this action is dismissed without prejudice for plaintiff's failure to
10 prosecute and failure to comply with court orders. *See* E.D. Cal. R. 110; Fed. R. Civ. P. 41.

11 DATED: January 24, 2023.

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13 CHIEF UNITED STATES DISTRICT JUDGE
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